

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE
STATE OF HAWAII

In the Matter of

PUBLIC UTILITIES COMMISSION

Instituting a Proceeding to Investigate
Implementing a Decoupling Mechanism for
Hawaiian Electric Company, Inc., Hawaii
Electric Light Company, Inc., and Maui
Electric Company, Limited

DOCKET NO. 2008-0274

PUBLIC UTILITIES
COMMISSION

2008 NOV 26 P 3:30

FILED

**BLUE PLANET FOUNDATION'S MOTION FOR LEAVE TO FILE REPLY
MEMORANDUM IN SUPPORT OF ITS MOTION TO INTERVENE**

REPLY MEMORANDUM IN SUPPORT OF MOTION TO INTERVENE

DECLARATION OF JEFFREY MIKULINA

AND

CERTIFICATE OF SERVICE

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Attorney for Blue Planet Foundation

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**BLUE PLANET FOUNDATION'S MOTION FOR LEAVE TO FILE ITS REPLY
MEMORANDUM IN SUPPORT OF ITS MOTION TO INTERVENE**

Blue Planet Foundation ("Blue Planet"), by and through its attorneys Schlack Ito Lockwood Piper & Elkind, and pursuant to section 6-6-41, Hawaii Revised Statutes, hereby files its Motion for Leave to File Its Reply Memorandum in Support of Its Motion to Intervene in the above-referenced Docket No. 2008-0274 ("Docket").

On November 13, 2008, Blue Planet Foundation filed its Motion to Intervene in the Docket ("Motion"). On November 24, 2008, Hawaiian Electric Company, Inc., Hawaii Electric Light Company, Inc., and Maui Electric Company, Limited (collectively, "HECO Companies") filed their Memorandum in Opposition to Blue Planet's Motion ("Opposition").

Blue Planet respectfully requests that Commission to grant it leave to file its Reply Memorandum to respond to certain matters raised in the HECO Companies' Opposition, including the identification of an expert on the issue of decoupling who will assist the Commission with development of a sound record, and further clarification of how Blue Planet's

interest is reasonably pertinent to the Docket, is not represented by the Consumer Advocate, and its participation will not broaden or unduly delay the proceedings.

For all of the foregoing reasons, Blue Planet respectfully requests the Commission to grant Blue Planet's Motion for Leave to File Its Reply Memorandum in Support of Its Motion to Intervene.

A handwritten signature in dark ink, appearing to read "Doug HC", is written over a horizontal line.

DOUGLAS A. CODIGA

Attorney for Blue Planet Foundation

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**BLUE PLANET FOUNDATION'S REPLY MEMORANDUM IN
SUPPORT OF ITS MOTION TO INTERVENE**

Blue Planet Foundation ("Blue Planet"), by and through its attorneys Schlack Ito Lockwood Piper & Elkind, hereby files its Reply Memorandum in Support of its Motion to Intervene filed November 13, 2008 ("Motion") in the above-referenced Docket No. 2008-0274 ("Docket"). On November 13, 2008, Blue Planet filed its Motion to Intervene in the Docket ("Motion"). On November 24, 2008, Hawaiian Electric Company, Inc., Hawaii Electric Light Company, Inc., and Maui Electric Company, Limited (collectively, "HECO Companies") filed their Memorandum in Opposition to Blue Planet's Motion ("Opposition").¹

¹ With regard to the standard for grant of intervention, it is noted that the HECO Companies assert that the "just, speedy and inexpensive determination of a proceeding," pursuant to section 6-61-1, Hawaii Administrative Rules ("H.A.R."), "cannot be accomplished if the Commission admits every movant as a party." Opp. at 3. Although Blue Planet does not advocate that the Commission admit "every movant as a party," Blue Planet notes that in Docket No. 2008-0273 regarding Feed-in Tariffs, the Hawaiian Electric Company, Inc. stated that it does not oppose the granting of intervenor status to some fifteen different parties. Letter from D. Endo-Emoto to Public Utilities Commission dated Nov. 24, 2008. Similarly, in citing the Hawaii Supreme Court's general rule that intervention is at the Commission's sole discretion, which Blue Planet does not dispute, the HECO Companies neglect to cite the immediately following sentence which sets forth the qualification that the rule is "always subject to the essential qualification that this discretion is not to be arbitrarily and capriciously exercised." *In re Hawaiian Electric Co.* 56 Haw. 260, 263, 535 P.2d 1102 (Haw. 1975).

I. ARGUMENT

A. Blue Planet's Interest is Sufficient and Reasonably Pertinent to the Docket, Will Not Broaden or Unduly Delay the Proceedings, and Is Not Represented by the Consumer Advocate.

The Opposition asserts that Blue Planet's interest is not sufficient or reasonably pertinent to the Docket. Opp. at 5-7. The HECO Companies narrowly construe the purpose of the Docket as limited to decoupling as a form of "ratemaking." *Id.* The HECO Companies go so far as to assert that the Order "does not provide that moving the State away from fossil fuel dependence is the purpose of this docket." *Id.* at 6 (emphasis in original).

This cramped interpretation is not supported by the language of the Order as a whole, however, which plainly indicates that the purpose of the Docket is to develop a decoupling mechanism in order implement the HCEI Agreement² and reduce dependence on fossil fuels. As explained in its Motion, the interest of Blue Planet, like that of the Docket, is to promote the development of a decoupling mechanism for the purpose of implementing the HCEI Agreement to reduce dependence on fossil fuels. Blue Planet's interest is therefore sufficient and its allegations in this regard are reasonably pertinent to the Docket. H.A.R. 6-61-55(d).

Given the commonality of interests between Blue Planet, the HECO Companies, and the Docket as a whole, it follows that Blue Planet's involvement as an intervenor will not broaden the issues or unduly delay the proceedings. For the same reasons, Blue Planet's interest is not represented by the Consumer Advocate. Blue Planet's interest is more than that of a consumer. Rather, its interest (like that of the Docket) is to promote the development of a decoupling mechanism for the purpose of implementing the HCEI Agreement to reduce dependence on fossil fuels.

² Energy Agreement Among the State of Hawaii, Division of Consumer Advocacy of the Department of Commerce and Consumer Affairs, and the Hawaiian Electric Companies dated Oct. 20, 2008 ("HCEI Agreement").

B. Blue Planet Will Assist in the Development of a Sound Record.

Upon being granted status as an intervenor in this Docket, Blue Planet intends to retain the services of E. Kyle Datta, Senior Director of the Rocky Mountain Institute's Research & Consulting group. Declaration of Jeffrey Mikulina dated Nov. 26, 2008 at para. 1. Mr. Datta is Founder and President of New Energy Partners, Inc., a renewable energy development company with projects focused in Hawai'i and the Western United States, and former Partner and Utilities Practice Leader with Booz Allen & Hamilton. E. Kyle Datta, https://www.rmi.org/images/other/StaffBios/RMI_BioKDatta.pdf. Mr. Datta's expertise includes the development and implementation of decoupling mechanisms for public utilities in Hawaii. Dec. of J. Mikulina at para. 2. Thus, Blue Planet will assist the Commission in the development of a sound record. H.A.R. 6-61-55(d).

II. CONCLUSION

For all of the foregoing reasons, Blue Planet Foundation respectfully requests the Commission to grant its Motion and any further relief the Commission deems just and proper.

DATED: Honolulu, Hawaii, November 26, 2008.



DOUGLAS A. CODIGA
Attorney for Blue Planet Foundation

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Electric Company, Limited

DECLARATION OF JEFFREY MIKULINA

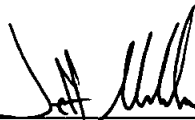
I, JEFFREY MIKULINA, declare and say:

1. Upon being granted status as an intervenor in this Docket, Blue Planet intends to retain the services of E. Kyle Datta, Senior Director of the Rocky Mountain Institute's Research & Consulting group.

2. Mr. Datta's expertise includes the development and implementation of decoupling mechanisms for public utilities in Hawaii.

I, JEFFREY MIKULINA, do declare under penalty of law that the foregoing is true and correct.

DATED: Honolulu, Hawaii, November 26, 2008.



JEFFREY MIKULINA

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this day served the foregoing Motion to Intervene, upon the following parties by causing a copy hereof to be mailed, postage prepaid, and properly addressed to such party as follows:

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DATED: Honolulu, Hawaii, November 26, 2008.


DOUGLAS A. CODIGA

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